MONTANA LEGISLATIVE HISTORY

Chapter 401 19 97

Bill H 406 S _____ Original bill & history ✓ C

H. Committee on Business & Labor			S. Committee on Business & Industry		
Hearing Date(s)	2-4	✓ C	Hearing Date(s)	3-18	✓ C
	2-5	✓ C		3-19	✓ C
	2-6	✓ C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/05	FISCAL NOTE RECEIVED		
2/10	FISCAL NOTE PRINTED		
2/11	HEARING		
2/13	TABLED IN COMMITTEE		
2/27	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL DIED IN COMMITTEE		

HB 405 INTRODUCED BY WYATT, ET AL. *LC0055 DRAFTER: FOX*

CREATE A COMMUNITY SUPERVISED RELEASE PROGRAM TO DIVERT FELONY OFFENDERS FROM PRISON

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO CORRECTIONS SELECT COMMITTEE		
1/31	FISCAL NOTE REQUESTED		
2/10	FISCAL NOTE RECEIVED		
2/13	HEARING		
2/13	FISCAL NOTE PRINTED		
3/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/12	2ND READING PASSED	78	19
3/13	3RD READING PASSED	84	16
	TRANSMITTED TO SENATE		
3/14	FIRST READING		
3/14	REFERRED TO FINANCE & CLAIMS		
3/18	REVISED FISCAL NOTE REQUESTED		
3/19	HEARING		
3/20	TABLED IN COMMITTEE		
3/27	REVISED FISCAL NOTE RECEIVED DIED IN COMMITTEE		

HB 406 INTRODUCED BY BANKHEAD *LC1186 DRAFTER: MACMASTER*

REVISE LANDLORD AND TENANT LAWS

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO BUSINESS & LABOR		
2/04	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED	64	36
2/11	3RD READING PASSED	69	30
	TRANSMITTED TO SENATE		
2/12	FIRST READING		
2/12	REFERRED TO BUSINESS & INDUSTRY		
3/18	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	35	15
3/28	3RD READING CONCURRED	32	16
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	85	9
4/11	3RD READING CONCURRED AS AMENDED	71	25
4/17	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/18	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR CHAPTER NUMBER 401 EFFECTIVE DATE: 10/01/97		

INTRODUCED BY [signature] House BILL NO. 406

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LANDLORD AND TENANT LAWS; REVISING LANDLORDS' RIGHTS AND DUTIES; DECREASING THE TIME PERIOD FOR A MOBILE HOME PARK TENANT TO PAY RENT AFTER NOTICE OF NONPAYMENT; DECREASING THE TIME PERIOD FOR A TENANT TO REMOVE ABANDONED PROPERTY AFTER NOTICE FROM THE LANDLORD; ALLOWING A LANDLORD TO COVER LABOR COSTS; AND AMENDING SECTIONS 70-24-103, 70-24-303, 70-24-422, 70-24-430, 70-24-436, AND 70-25-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-24-103, MCA, is amended to read:

"**70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the tenant or others.

(3) "Court" means the appropriate district court, justice's court, or city court.

(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile home park but does not rent the mobile home, means the space rented and not the mobile home itself.

(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(6) "Landlord" means:

(a) the owner, lessor, or sublessor of:

(i) the dwelling unit or the building of which it is a part; or

(ii) a mobile home park; or

(b) a manager of the premises who fails to disclose the managerial position.

(7) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(8) "Mobile home park" means a trailer court as defined in 50-52-101.

(9) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(10) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

(11) "Person" includes an individual or organization.

(12) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(13) "Rent" means all payments to be made to the landlord under the rental agreement.

(14) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(15) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of which are used in common by occupants in the structure.

(16) "Single-family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

(17) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

Section 2. Section 70-24-303, MCA, is amended to read:

"70-24-303. **Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector.** (1) A landlord shall:

(a) comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(c) keep all common areas of the premises in a clean and safe condition;

(d) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by ~~him~~ the landlord;

~~(e) provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;~~

~~(f)~~(e) supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

~~(g)~~(f) install, in accordance with rules adopted by the department of justice, an approved smoke detector in each dwelling unit under ~~his~~ the landlord's control. Upon commencement of a rental agreement, the landlord shall verify that the smoke detector in the dwelling unit is in good working order. The tenant shall maintain the smoke detector in good working order during the tenant's rental period. For purposes of this subsection, an approved smoke detector is a device that is capable of detecting visible or invisible particles of combustion and that bears a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(2) If the duty imposed by subsection (1)(a) ~~of this section~~ is greater than a duty imposed by subsections (1)(b) through ~~(1)(g)~~ (1)(f), a landlord's duty ~~shall~~ must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in ~~subsections~~ subsection (1)(e) ~~and (1)(f) of this section~~ and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a) ~~of this section~~; and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the smoke detector required under subsection ~~(1)(g)~~ (1)(f)."

Section 3. Section 70-24-422, MCA, is amended to read:

"70-24-422. **Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321 affecting health and safety, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 days after receipt of the notice. If the breach is not remedied within that time, the rental agreement terminates as provided in the notice, subject to the following exceptions:

(a) If the breach is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate.

(b) If the breach involves an unauthorized pet, the landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time. This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home.

(c) If the breach involves unauthorized persons residing in the rental unit, the landlord may deliver

a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time. This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home.

(d) If substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the breach and the date of the termination of the rental agreement.

(2) ~~(a) Except as provided in subsection (2)(b), if~~ If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

~~(b) For a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home, the notice period referred to in subsection (2)(a) is 15 days.~~

(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the breach under the provisions of 70-24-321(2).

(4) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (5), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

(5) Treble damages may not be recovered for the tenant's early termination of the tenancy.

(6) The landlord is not bound by this section in the event that the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."

Section 4. Section 70-24-430, MCA, is amended to read:

"**70-24-430. Disposition of personal property abandoned by tenant after termination.** (1) If a tenancy terminates in any manner except by court order and the landlord reasonably believes that the tenant has abandoned all personal property ~~which~~ that the tenant has left on the premises~~,~~ and a period of time of at least 5 days has elapsed since the occurrence of events upon which the landlord formed that belief, the landlord may remove the property from the premises.

(2) The landlord shall inventory and store all goods, chattels, and personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the cost of removal of the property to the place of storage. The landlord may store the property in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost of removal of the property to the place of storage.

(3) After complying with subsections (1) and (2), the landlord shall:

(a) make a reasonable attempt to notify the tenant in writing that the property must be removed from the place of safekeeping;

(b) notify the local law enforcement office of the property held by the landlord;

(c) make a reasonable effort to determine if the property is secured or otherwise encumbered; and

(d) send a notice by certified mail to the last-known address of the tenant, stating that at a specified time, not less than 15 days after mailing the notice, the property will be disposed of if not removed.

(4) The landlord may dispose of the property after complying with subsection (3) by:

(a) selling all or part of the property at a public or private sale; or

(b) destroying or otherwise disposing of all or part of the property if ~~he~~ the landlord reasonably believes that the value of the property is so low that the cost of storage or sale exceeds the reasonable value ~~thereof~~ of the property.

(5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord on or before the day specified in the notice that ~~he~~ the tenant intends to remove ~~his~~ the property and does not do so within ~~15~~ 7 days after delivery of the tenant's response, the tenant's property ~~shall be~~ is conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage. Reasonable storage costs are allowed a landlord who stores the property ~~himself~~, and actual storage costs are allowed a landlord who stores the property in a commercial storage company. A landlord is entitled to payment of the storage costs allowed under this subsection before the tenant may remove the property.

(6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord

is liable for ~~double~~ actual damages.

(7) A public or private sale authorized by this section ~~shall~~ must be conducted under the provisions of 30-9-504(3) or the sheriff's sale provisions of Title 25, chapter 13, part 7.

(8) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale and any delinquent rent or damages owing on the premises and ~~must~~ shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be found, the remaining proceeds ~~shall~~ must be deposited with the county treasurer of the county in which the sale occurred and, if not claimed within 3 years, ~~shall~~ must revert to the general fund of the county available for general purposes."

Section 5. Section 70-24-436, MCA, is amended to read:

"**70-24-436. Mobile home parks -- grounds for termination of rental agreement.** (1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422, except as specifically provided in this section, and only for one or more of the following reasons:

(a) nonpayment of rent, late charges, or common area maintenance fees as established in the rental agreement;

(b) late payment of rent, late charges, or common area maintenance fees as established in the rental agreement three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by 70-24-422. For this subsection (1)(b), the notice period referred to in 70-24-422(1) is 30 days.

(c) violation of a mobile home park rule that creates an immediate threat to the health and safety of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator is given written notice of the violation;

(d) two or more violations within a 12-month period of any combination of one or more mobile home park rules, the violation of which would have a significant adverse impact on the mobile home park or its residents and ~~which~~ that are so designated;

(e) two or more violations within a 12-month period of the same rule. For this subsection (1)(e), the notice period referred to in 70-24-422(1) is ~~60~~ 30 days.

(f) two or more violations of 70-24-321(1) within a 12-month period or any violation of

70-24-321(2);

(g) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use of the premises. For this subsection (1)(g), the notice period referred to in 70-24-422(1) is 30 days.

(h) endangers other residents or mobile home park personnel, or causes substantial damage to the mobile home park premises;

(i) conviction of the mobile home owner or a tenant of the mobile home owner of a violation of a federal or state law or local ordinance, when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park, or the landlord's documentation of a violation of the provisions of Title 45, chapter 9;

(j) changes in the use of the land if the requirements of subsection (2) are met. For this subsection (1)(j), the notice period referred to in 70-24-422(1) is 180 days.

(k) a legitimate business reason, provided that the landlord meets the following requirements:

(i) the termination does not violate a provision of this section or any other state statute; and

(ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum of 90 days' written notice of the termination.

(2) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (2)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(3) For purposes of calculating the total number of notices given within a 12-month period under subsection (1)(b), only one notice ~~per~~ for each violation per month may be included in the calculation."

Section 6. Section 70-25-201, MCA, is amended to read:

"**70-25-201. Security deposit -- deductions authorized therefrom.** (1) A landlord renting property covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties due under lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-24-441(3), and a sum for actual cleaning expenses, including a reasonable charge for the landlord's labor.

(2) At the request of either party, the premises may be inspected within 1 week prior to termination of the tenancy.

(3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not be deducted until written notice has been given to the tenant. The notice must include the cleaning not accomplished by the tenant and the additional and type or types of cleaning that need to be done by the tenant to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant has 24 hours to complete the required cleaning. If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the cleaning charges from the deposit.

(4) A person may not deduct or withhold from the security deposit any amount for purposes other than those set forth in this section."

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 4, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 375, HB 364, HB 382, SB 56 (1/29/97)
HB 406, HB 409 (1/31/97)

Executive Action: HB 375; HB 382; SB 56

Jerry Driscoll, MT Pawnbrokers Assn
{Tape: 1; Side: 2; Approx. Time Count: 22.6; Comments: None.}

Charles Carson, Big Man Pawn, Helena, MT
{Tape: 1; Side: 2; Approx. Time Count: 23.8; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: 2; Approx. Time Count: 24.; Comments: None.}

Closing by Sponsor: **Rep. Kottel** closed.
{Tape: 2; Side: 1; Approx. Time Count: 7.5; Comments: None.}

HEARING ON HB 382

Opening Statement by Sponsor: **Rep. Scott Orr,** H.D. 82 introduced the bill.
{Tape: 2; Side: 1; Approx. Time Count: 11.7; Comments: None.}

Proponents' Testimony:
Bob Gilbert, MT/WY L P Gas Assn.
{Tape: 2; Side: 1; Approx. Time Count: 13.1; Comments: None.}

Darrell South, Owner of Montana Propane, Helena
{Tape: 2; Side: 1; Approx. Time Count: 14.3; Comments: None.}

Martin McGay, AmeriGas of MT
{Tape: 2; Side: 1; Approx. Time Count: 16.1; Comments: None.}

Dan Bufords, Cenex
{Tape: 2; Side: 1; Approx. Time Count: 16.6; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:
{Tape: 2; Side: 1; Approx. Time Count: 17.2; Comments: None.}

Closing by Sponsor:**Rep. Orr** closed.
{Tape: 2; Side: 1; Approx. Time Count: 26.6; Comments: None.}

HEARING ON HB 406

Opening Statement by Sponsor: **Rep. Paul Bankhead,** H. D. 72 introduced the bill.
{Tape: 2; Side: 1; Approx. Time Count: 27.9; Comments: None.}

Proponents' Testimony:
Greg Van Horrsen, MT Housing Providers
{Tape: 2; Side: 1; Approx. Time Count: 27.8; Comments: None.}

Rhonda Carpenter, MT Housing Providers, Ex. Secy.
{Tape: 2; Side: 1; Approx. Time Count: 36.1; Comments: None.}

Rick Landfeller
{Tape: 2; Side: 1; Approx. Time Count: 41.8; Comments: None.}

Jan Rehberg, for Gary Oakland
{Tape: 2; Side: 1; Approx. Time Count: 42.2; Comments: None.}

Opponents' Testimony:
Derek Berne, MT Peoples Action. EXHIBIT 9.
{Tape: 2; Side: 2; Approx. Time Count: .6; Comments: None.}

Tara Meile, MPIRC, EXHIBIT 7.
{Tape: 2; Side: 2; Approx. Time Count: 6.4; Comments: None.}

Carol Haughland, MT Peoples Action
{Tape: 2; Side: 2; Approx. Time Count: 9.8; Comments: None.}

Russell LaVinge, MT Welfare and Low Income Coalition EXHIBIT 8.
{Tape: 2; Side: 2; Approx. Time Count: 12.4; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 2; Side: 2; Approx. Time Count: 16.6; Comments: None.}

Closing by Sponsor:**Rep. Bankhead** closed.
{Tape: 2; Side: 2; Approx. Time Count: 31.4; Comments: None.}

HEARING ON HB 375

Opening Statement by Sponsor: **Rep. Bill Ryan,** H.D. 44 introduced the bill.
{Tape: 2; Side: 2; Approx. Time Count: 33.6; Comments: None.}

Proponents' Testimony:
Carl Schweitzer, MT Contractors Assn.
{Tape: 2; Side: 2; Approx. Time Count: 39.5; Comments: None.}

Doug Hardy, Park Electric
{Tape: 3; Side: 1; Approx. Time Count: .4; Comments: None.}

Bud Krezler, MT Utility Coordinating Council
{Tape: 3; Side: 1; Approx. Time Count: .8; Comments: None.}

Tim Evanson, A T and T
{Tape: 3; Side: 1; Approx. Time Count: 2.; Comments: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None.

Closing by Sponsor:**Rep. Ryan** closed.
{Tape: 3; Side: 1; Approx. Time Count: 2.6; Comments: None.}

EXHIBIT 7
DATE 2/4/97
HB 406

HB 406

AMENDMENT Section 2. Subsection (1)

(e) Provide and maintain appropriate receptacles and conveniences for removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal; except where such amenities are not readily available.

EXHIBIT 8
DATE 2/4/97
HB 406

HOUSE OF REPRESENTATIVES
55TH LEGISLATURE

Business & Labor COMMITTEE

WITNESS STATEMENT

Please Print

NAME Russell LaVigne, Jr. BILL NO. HB 406

ADDRESS Box 511 Butte DATE 2-4-97

WHOM DO YOU REPRESENT? MT Low-Income Coalition
MT Welfare Action Coalition

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: We oppose HB 406 because it limits tenants rights. Previous amendments to Landlord-Tenant Act were made after long and detailed negotiations between landlords & tenants. Proponents now seek to unilaterally reduce tenant's rights without reason or equity. Mobile home park lot renters need 15 days to pay late rent because they should not have to move unless it is absolutely necessary. Moving a trailer is very expensive. We do not oppose landlord's compensation for labor, but we want tenant's compensation for labor when tenant exercises right to repair and deduct. We oppose reducing damages for purposeful loss of tenant's property under (over)

abandonment section. Landlord's must be penalized for intentional acts. Many times this section is abused. For example, property is destroyed even when it is not abandoned as in cases of lock out evictions and tenant's are away ~~on~~ due to emergencies.

FOR HOUSE BUSINESS & LABOR COMMITTEE

EXHIBIT 9
DATE 2/4/97
HB 406

February 4, 1997
Derek Birnie, Montana People's Action

Testimony opposing HB 406

Mister Chair and members of the Committee. My name is Derek Birnie. I'm the Lead Field Organizer and Chief Lobbyist for Montana People's Action, a statewide organization of Low- and Moderate-Income Montanans seeking to improve their lives through collective action. Montana People's Action has been involved in a Housing issues for many years, and launched a Campaign for Housing Justice at the end of last legislative session. The campaign is a search of fairness in landlord-tenant relations and in housing legislation at the local, state, and federal levels.

Many of our members wished they could be here today to express their opinions directly, but most of them are working and could not take the day off with short notice and given that so many of them are already planning on being here on Thursday February 6th. Please look for MPA members on Thursday to get their views on this bill. For now, I will do my best to summarize their concerns briefly.

MPA's strongest objection concerns page 5 lines 12 & 13 of the bill [70-24-103 Sec 3 (2)(b)], which shortens the legally prescribed "grace period" for late payment of rent. Mobile home owners as property owners have thousands of dollars in equity tied up in their homes - for many it is their main investment. Termination of a rental agreement can mean

1) a cost of several thousand dollars as the normal price of moving the "mobile" home (if there is a space to which it can be moved); or
2) the loss of equity if there is no place to move it to and the tenant is forced to sell the home. If the landlord exercises his or her right to disallow the home from being sold to stay on the lot, the value of the home can drop as much as $15,000.

For the homeowner, the effect can be similar to a repossession. In no comparable example - defaulting on a home mortgage payment or a car loan for example - is the grace period as short as three days.

We're also concerned about page 7 line 29 [70-24-436 Sec 1 (1)(e)], which shortens the notice period for termination of the rental agreement in Mobile home parks. I should point out the SB 279 also will amend this section. It is already problematic that violation of the same rule twice is grounds for eviction. In Westview Mobile Home Park in Missoula where there is a rule against debris in the yard, some of our members are finding

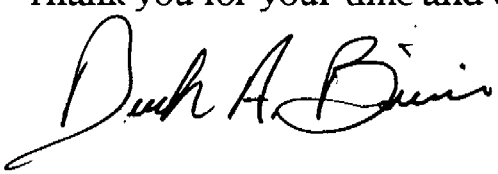
themselves subject to eviction for leaving tricycles out. This bill compounds the injustice by shortening that period.

Page 7 line 1 [70-24-430 Sec 6]: The law outlines the landlord's responsibility to treat tenant's property with care in the event the landlord stores the property. By reducing liability to actual damages the bill removes the legal incentive to avoid engaging in purposeful behavior in violation of the law.

In respect for your time I won't comment in detail but will mention that we also have concerns about 1) expanding landlord access to rental property, 2) reducing services (waste removal), and 3) removing the impartial 3rd party from the determination of cost of cleaning rental properties.

My members direct me to urge you to consider this bill carefully and to not recommend its passage.

Thank you for your time and consideration.



MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 5, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:		SB 80: HB 388:(1/29/97): HB 341 (1/30/97)
	Executive Action:	HB 409; SB 80; HB 364; Partial HB 309; HB 406

EXECUTIVE ACTION ON HB 364

Motion: **Rep. Pavlovich** moved to withdraw do pass motion.
{Tape: 1; Side: 1; Approx. Time Count:32.1; Comment: To be continued at later date.}

EXECUTIVE ACTION ON HB 409

Motion/Vote: **Rep. Pavlovich** moved to table HB 409. Motion carried unanimously.
{Tape: 1; Side: 1; Approx. Time Count: 32.1; Comments: None.}

EXECUTIVE ACTION ON HB 406

Motion: **Rep. Devaney** moved do pass HB 406.
{Tape: 1; Side: 1; Approx. Time Count: 33.0; Comments: None.}

Discussion: *{Tape: 1; Side: 1; Approx. Time Count: 33.5; Comments: None.}*

Motion: **Rep. Ewer** moved Ewer amendment.
{Tape: 1; Side: 1; Approx. Time Count: 35.6; Comments: None.}

Discussion:
{Tape: 1; Side: 1; Approx. Time Count: 36.0; Comments: None.}

Motion: **Reps. Ewer and Devaney** moved to withdraw their motions.
{Tape: 1; Side: 2; Approx. Time Count: 6.8; Comments: Action to continue on 2/6/97}

HEARING ON HB 341

Opening Statement by Sponsor: **Rep. Mercer** introduced the bill.
{Tape: 1; Side: 2; Approx. Time Count: 6.8; Comments: None.}

Proponents' Testimony: **Don Randash, Auto Parts Store Owner, EXHIBIT 3,4,5**
{Tape: 1; Side: 2; Approx. Time Count: 9.2; Comments: None.}

Don Nagel, NAPA Auto Parts
{Tape: 1; Side: 2; Approx. Time Count: 15.1; Comments: None.}

Tom Stevens, Central Parts Co. EXHIBIT 6.
{Tape: 1; Side: 2; Approx. Time Count: 17.8; Comments: None.}

Jay Shepard, Missoula Auto Parts. EXHIBIT 7.
{Tape: 1; Side: 2; Approx. Time Count: 19.3; Comments: None.}

Richard Ike, Polson, MT. EXHIBIT 8.
{Tape: 1; Side: 2; Approx. Time Count: 20.0; Comments: None.}

Carl Skindingsrude, Columbia Falls, MT

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 6, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 345, HB 391 (1/27/97); HB 399, JR 10; SB 152 (1/31/97)
Executive Action: SB 152; HB 399; HB 349; HB 406; JR 10; HB 341; HB 322

EXECUTIVE ACTION ON HB 332

Motion/Vote: **Rep. Marshall** moved to table HB 332. Motion carried unanimously.
{Tape: 3; Side: 1; Approx. Time Count: 18.0; Comments: None.}

EXECUTIVE ACTION ON HB 341

Motion/Vote: **Rep. Gillan moved do pass HB 341. Motion passed 17-1. Ewer absent. Squires no.**
{Tape: 3; Side: 1; Approx. Time Count: 21.2; Comments: None.}

EXECUTIVE ACTION ON HJR 10

Motion/Vote: **Rep. Krenzler** moved do pass HJR 10. Motion carried unanimously.
{Tape: 3; Side: 1; Approx. Time Count: 23/0; Comments: None.}

EXECUTIVE ACTION ON 406

Motion: **Rep. Ewer** moved do pass HB 406.
{Tape: 3; Side: 1; Approx. Time Count: 24.6; Comments: None.}

Motion: Rep. Ewer moved to adopt Ewer amendments. **EXHIBIT 15.**
{Tape: 3; Side: 1; Approx. Time Count: 24.6; Comments: None.}

Discussion: *{Tape: 3; Side: 1; Approx. Time Count: 25.; Comments: None.}*

Vote: Motion carried unanimously.
{Tape: 3; Side: 1; Approx. Time Count: 26.1; Comments: None.}

Motion/Vote: **Rep. Sliter** moved do pass HB 406 as amended. Motion carried 15-4. **Reps. Ewer, Pavlovich, Squires and Krenzler** voted no.
{Tape: 3; Side: 1; Approx. Time Count: 26.9; Comments: None.}

EXECUTIVE ACTION ON HB 349

Motion: **Rep. Ewer** moved do pass HB 349.
{Tape: 3; Side: 1; Approx. Time Count: 27.; Comments: None.}

Motion/Vote:**Rep. Ewer** moved to adopt Ewer amendments. Amendments passed 17-2. **Reps. Devaney & Gillan** voted no. **EXHIBIT 16.**
{Tape: 3; Side: 1; Approx. Time Count: 27.6; Comments:None.}

Motion:**Rep. Ewer moved do pass HB 349 as amended.**

EXHIBIT 15
DATE 2/6/97
HB # 406

Amendments to House Bill No. 406
First Reading Copy

[redacted]

For the Committee on Business & Labor

Prepared by Stephen Maly
February 5, 1997

1. Page 3, following line 15.
Insert: "(e) unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;"
Renumber: subsequent subsections

2. Page 3, line 29.
Strike: "(1)(f)"
Insert: "(1)(g)"

3. Page 4, line 2.
Strike: "subsection"
Insert: "subsections"
Following: "(1)(e)"
Insert: "and (1)(f) of this section"

4. Page 4, line 13.
Strike: "(1)(f)"
Insert: "(1)(g)"

SENATE BUSINESS & INDUSTRY

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ------- REREFERRED ---- DATE READ

HB0331	SOFT, LOREN		AMEND YOUTH ACCESS TO TOBACCO PRODUCTS CONTROL ACT			
	2/14	3/07		CONCUR AS AMENDED 03/07 VOTE: 6-0		3/11
HB0350	BEAUDRY, HALEY		REVISE ECONOMIC DEVELOPMENT INVESTMENT PROGRAM			
	2/04	3/05		CONCUR 03/07 VOTE: 6-0		3/07
HB0357	WELLS, JACK		CLARIFY LANDLORD'S WAIVER OF CLAIMED RENTAL AGREEMENT BREACH BY TENANT			
	2/06	3/12		CONCUR 03/12 VOTE: 6-0		3/13
HB0375	RYAN, WILLIAM		REVISING REGULATIONS REGARDING EXCAVATION NEAR UNDERGROUND UTILITY			
	2/07	3/19		CONCUR 03/19 VOTE: 6-0		3/21
HB0382	ORR, SCOTT		EXTEND PERMISSIBILITY OF INSTALLING BELOW-GRADE LPG-BURNING APPLIANCES			
	2/07	3/12		CONCUR 03/12 VOTE: 6-0		3/13
HB0388	SIMON, BRUCE		GENERALLY REVISE BUILDING CODE LAWS			
	2/19	3/13		CONCUR AS AMENDED 03/25 VOTE: 6-0		3/26
HB0391	ROSE, JOHN		IMPLEMENT ONE-STOP BUSINESS LICENSING PILOT PROJECT			
	4/02	4/07		CONCUR 04/07 VOTE: 6-0		4/07
HB0399	TUSS, CARLEY		TRANSFER CHEMICAL DEPENDENCY COUNSELOR CERTIFICATION TO COMMERCE FROM DPHHS			
	2/11	3/13		CONCUR AS AMENDED 03/19 VOTE: 6-0		3/21
HB0406	BANKHEAD, PAUL		GENERALLY REVISE LANDLORD AND TENANT LAWS			
	2/12	3/18		CONCUR AS AMENDED 03/19 VOTE: 6-0		3/21
HB0431	QUILICI, JOE		PROHIBIT UNAUTHORIZED CHANGE IN LONG DISTANCE SERVICE PROVIDER ("SLAMMING")			
	2/19	3/14		CONCUR AS AMENDED 03/19 VOTE: 6-0		3/21
HB0435	HARPER, HAL		REQUIRE CERTAIN INFO WHEN MAKING CAT OR DOG AVAILABLE FOR SALE OR ADOPTION			
	2/19	3/14		CONCUR AS AMENDED 03/19 VOTE: 4-1		3/21
HB0478	WISEMAN, WILLIAM		REVISING DEF. OF "GLASS BROKER"; REVISE PROHIBITIONS IN RE AUTO GLASS SALES			
	2/19	3/14		CONCUR 03/19 VOTE: 6-0		3/21

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 18, 1997, at 9:00 A.M., in ROOM 410.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 406; HB 492; 3/5/97
SJ 14; 3/7/97
Executive Action: SJ 14; HB 164

HEARING ON SJ 14

Sponsor: SENATOR BEA MCCARTHY, SD 29, ANACONDA

Proponents:
Bill Olson, AARP
Rich Pavlonnis, Cimmaron Corp, Great Falls
Annie Bartos, Chief Legal Counsel, Dept. of Commerce
Ross Cannon, Direct Marketing Assoc.
Mike Strand, MT Independent Telecommunications Systems
Beth Baker, Department of Justice

Opponents: None

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked what types of telemarketing your company deals in? **Mr. Pavlonnis** replied that they telemarket magazines across the country. Their sales are approximately between $6 and $7 million. **SEN. BENEDICT** asked how SB 136 would have impacted his company? **Mr. Pavlonnis** responded that a very small portion of their business is in the state. It deals with primarily anything in-state as just a renewal sale. Of course, they would have gotten the registration and bond which would have been worth it in exchange for some of the other items.

Closing by Sponsor:

SEN. MCCARTHY closed. She asked if **Beth Baker** could address the Resolution as she had just come into the hearing room.

Beth Baker, Department of Justice. She was down in another hearing. They do support SJ 14. They are ready and willing to help. In the last two sessions they had tried to pass some kind of legislation that would resolve this problem. Hopefully this will take care of it. She thanked the committee.

{Tape: 1; Side: A; Approx. Time Count: 9:14 AM; Comments: N/A.}

HEARING ON HB 406

Sponsor: **REP. PAUL BANKHEAD, HD 72, HERON**

Proponents: **Greg Van Horssen, MT Housing Providers**
Ronda Carpenter, MT Housing Providers
Dan McLean, Oakland Companies

Opponents: **Derek Birnie, MT People's Action**
Tara Mele, MT Public Interest Research Group
Kimberly Eisenrager, MT People's Action

Opening Statement by Sponsor:

REP. PAUL BANKHEAD, HD 72, HERON. HB 406 is a landlord-tenant rewrite. In Section 1, it redefines the "case of emergency". Section 2, it was amended in the House Business & Labor Committee and basically it allows the parties the option to decide the garbage removal issue in the rental agreement. Section 3, this deals with the paying of rent. Section 4, this deals with the disposition of property. Section 5, this deals with the notice requirements necessary in a mobile home park when the tenant has violated the same rule two or more times in a 12-month period. Section 6, this allows the landlord to charge for his labor time. It also reflects the reasonable labor charges as well.

Proponents' Testimony:

Greg Van Horssen, MT Housing Providers. We strongly support HB 406. It is a simple and straightforward bill that will streamline some of the processes involved in terminating rental agreements for various reasons. I would like to review the details of the amendments and what is hoped to be accomplished by these amendments.

Section 1, you will note that there is a change of the definition of "in case of emergency". Under current law, a landlord has access to the premises without notice in cases of emergency. But if you look at the definition of a case of emergency, a "case of emergency" is defined exclusively as "a tenant's perception of whether an emergency exists". This amendment allows that the landlord's perception can be considered as far as entering the premises in case of emergency without notice. We believe this definition should be amended given the circumstance that the landlord does own the property and, if indeed, someone besides the tenant feels that there is an emergency there should be access to the unit without notice.

Section 2 of the bill beginning on page 3, originally involved and still does, the landlord's providing for the removal of garbage from a rental unit. This has been amended to put the language back in. We were consulted on the House side regarding the amendment. The amendment currently says that unless otherwise agreed, it is the landlord's obligation to take care of trash removal.

Section 3 which begins on page 4, line 20, addresses the termination of rental agreements for nonpayment of rent. When a tenant does not pay rent under the general provisions of the Montana Landlord-Tenant Act residential arrangements, the landlord has the legal right to terminate the rental agreement. Three days after notice has been given to the tenant to vacate or pay the rent that is due, the landlord can terminate the lease agreement. If the tenant pays the rent in that time frame, the landlord cannot terminate the lease agreement for nonpayment of rent. But under the provisions as they relate to mobile homes, that 3 day time frame is 15 days. So under this provision for mobile homes, the rent can be delayed up to twenty days. If the rent then is paid on the twentieth day, the landlord has no remedy and cannot terminate the lease agreement for nonpayment of rent. This bill would allow the mobile home landlord the same three day time frame for demanding rent payment or vacate the premises. The landlord is in business and has bills and obligations to take care of. His business is hampered if he is forced to wait till the twentieth day for payment of rent every month.

This does not even address the process involved with actually removing someone from the mobile home community. There are others who will address that process and how the law views the

distinction between someone who resides in a residential apartment and someone who resides in a mobile home community.

Section 4 of the bill basically addresses the issue of abandoned property and the disposition of that property. Currently, there are times when a landlord rents a place to a tenant and the tenant moves out and abandons the property. Under current law, the landlord can go in after sufficient notice, store that property and give notice to the sheriff's office that the property exists and is inventoried and stored. If the tenant comes back and claims the property, the landlord can charge for the storage of the property only. What the law does not allow for currently is the time necessary for the property manager or the landlord to actually box that property and move that property to a storage receptacle. The amendment would allow the landlord to charge a reasonable amount for his or her time spent in moving abandoned property and storing the same. The amendments in Section 6 simply allow for that fee or that reasonable charge to be removed from the security deposit.

On page 6, line 27, this changes the time frame within which the tenant's property is considered conclusively to be abandoned. Currently it is fifteen days. In the interest of expediting the process, the amendment proposed shortens that time period to 7 days. It provides that there is already notice given to the tenant and the tenant has responded in writing to the landlord of the intent to remove the property. Under current law, even though there has been a written response, they are given an additional 15 days before the landlord can say, well they didn't show up, guess I should go ahead and take care of it myself. What is being asked with this amendment is that, if the tenant has been notified and the tenant has written back saying they will be back to pick up the property one of these days and if they don't show up in a week, allow us to self-help here. Allow us to take this property and store it so that we can open our rental unit to rent again.

In Section 4, page 7, line 6 there is another change. Under current law, it provides that if the landlord has a purposeful violation in the storage of property, the landlord should be liable for double damages. The real hammer in the landlord-tenant law, if you will, is the availability of attorney's fees. As such, that is the very real incentive to comply with the law. They would ask the committee to consider simply changing double damages to actual damages understanding that the attorney fees is what guides people away from doing anything onerous under the Landlord-Tenant Act.

Section 5, page 7, line 16 simply amends the notice provisions under one specific section of the "just cause" act. The just cause provisions of the law came into effect in 1993 and it is a precise laundry list of the reasons for which a landlord may evict a person who happens to live in their mobile home community. If it is not for one of the reasons on this list, you

cannot do it. The change in section 5, is on page 8, line 4 and it talks about circumstances where there have been two or more violations of the same rule within a 12-month period. We would ask to change that from 60 days to 30 days, understanding that this is simply referring to the termination of the rental agreement. When there have been two violations of the law, the tenant has had notice of those rules and violations and this change would expedite the process of removing the folks who have chosen to disregard the rules. Let us make the notice of termination 30 days. This will be good for those who are living and abiding under the rules. Thank you for your time and we ask for a Do Concur on this bill.

{Tape: 1; Side: A; Approx. Time Count: 9:30 AM; Comments: N/A.}

Ronda Carpenter, MT Housing Providers. We rise in support of HB 406. I would like to speak about the eviction laws. The eviction process is a very lengthy process in the courts and I would like you to understand just how long it does takes and what little control we have while that process is going on. This applies not only to nonpayment of rent but to the time given once the rules have been violated and we know that we are terminating the rental agreement. We would like to shorten the length of time from 60 days to 30 days. Our rental agreements already say that rent is due on the first, payable by the fifth. On the sixth day, you can give a three-day notice to pay rent or vacate. In mobile home parks we give a fifteen-day notice to pay rent or vacate. That allows to the twentieth of the month before they actually have to pay their rent. It is almost time to pay rent again. They know when the rent is due. It is not a surprise. The rules are in writing. They have a copy of the rules and so this is not a surprise. The eviction procedures in just cause eviction allow for a long method of notifying. They must commit the same violation twice within a 12-month period. Both times the violation is written up and given to the tenant. Nothing is a surprise to the tenant. They are aware of all rules and regulations. After the second written notice, we are asking to shorten that time period from 60 days to 30 days. We can take no action whatsoever until the end of that time frame be it 30 or 60 days. We must wait till they move. We have no control over their following the rules or paying rent. The tenant knows that the rental agreement has been terminated. So, on the 61st day after the second violation of the same rule, or on the 21st day in the case of nonpayment of rent, we can go to justice court and file an action for possession. The tenant in this case has chosen not to move or pay rent. The paper work going through the Justice Court takes time. This can take two to three weeks. For the nonpayment of rent, we are now into the next month with no rent. Then they have 10 days to respond. So for mobile homes, we are up to 90 days. Now we wait for trial date. Even if the judge rules in favor of the landlord, he gives reasonable time for the tenants to move. Most justices give them at least 30 to 90 days. In the mobile home court evictions, we can look up to 6 months before eviction comes about. This is definitely not good

for the landlord and neither is it good for those tenants who must live next to a tenant who knows they are going to evicted.

In the case of abandoned property, the landlord must have reason to believe that the property is abandoned which usually means the time of rent payment. On the sixth, you go to the tenant to find out where the rent is. Then you have to allow five more days to pass while believing that property is abandoned. Then everything must be inventoried, send a copy of that inventory to the tenant's last known address and send a copy to the police department. Then you must allow three days for mailing and an additional 15 days before you can start to dispose of that property and get your property back on the market. A full month of down time on rental property. This is not applicable in mobile home parks. There the whole mobile home would have to be abandoned. We are asking for that time to be cut in half. We want to give the tenants time to come back and get their property. But the abandoned property is a problem when the tenant gets up in the middle of the night and leaves or leaves in the daytime when you are not looking.

Many of the business people I represent, either don't have garages for storage or it is not property that even justifies renting a storage unit for because of the value or lack of value of the property. Chances are the rental unit is not left in a clean condition. The security deposit does not cover the month's rent, plus the storage, plus the cleaning, etc. We are simply trying to cut these costs down a little bit so the bad debt costs are not passed on to our other customers. Please support this bill.

Dan McLean, Oakland Companies. We rise in support of HB 406. To reinforce the idea of the practicalities of the eviction, I don't believe that any responsible landlord would take the view of trying to get rid of tenants. Tenants are their customers. What we are dealing here with are those tenants who are problems. The landlord needs a reasonable time to get rid of problem tenants. One case I know of is that it took about four months to get someone evicted from an apartment for nonpayment of rent. That was a three-day notice, but by the time you go through justice court, etc. it takes a great deal longer than it would appear in the law. The costs of doing so are a significant factor for any landlord. It is more costly for mobile home park owners. I urge your support of the bill. The changes are fair and reasonable and makes the operation of the act much more practical.

Opponents' Testimony:

Derek Birnie, MT People's Action. I will give my testimony and hand in a written copy **(EXHIBIT 1)**. Thank you.

{Tape: 1; Side: B; Approx. Time Count: 9:50 AM; Comments: N/A.}

Tara Mele, MT Public Interest Research Group. I feel that tenants are in a powerless position. Section 1 is the section that we are most concerned in which is the privacy question. I do understand that the landlord may feel there is a problem in a unit and feels that they need to gain access without advanced notice; however, by putting this in law, this could be greatly abused by a landlord. The next section is Section 2. We feel that the landlord should be responsible for the removal of the trash. We understand in rural areas the tenants should probably take care of the trash themselves, but in the larger cities services are available. We feel that this would be best if the landlord is responsible for trash. Section 6, labor charges should be payable to the landlord for work that he has done, but there should be some accountability. This could be abused if there is not some way that the time can be accounted for. Possibly, they could log their hours so there could be some safeguards for tenants. We would urge you to table this bill and if that is not possible please look at some of my suggestions for amendments.

Kimberly Eisenrager, MT People's Action. In regard to Section 3, reducing the late rent payment from 15 days to 3 days, this would impact the most vulnerable tenants, those who rely on a timely delivery of a check. (She relates a story of a possible eviction. She would urge the committee not to change the time frame.) Thank you.

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if there is any provision when a landlord goes to court for an eviction for repayment of past rent? **Ms. Carpenter** stated that in the court action the landlord submits a request for past rent and that rent will be paid in the judgment.

SEN. BEA MCCARTHY asked about page 3, regarding garbage disposal. In current law, which is in the paragraph above it, the only change is the six words "unless otherwise provided in a rental agreement". Are you having problems with the current law? **Mr. Birnie** said no. **SEN. MCCARTHY** stated that he must be having trouble with the six words. And if so, what would he suggest? **Mr. Birnie** said yes, that is true. He stated that in geographic areas where there are no such services available this would be alright, but if it is available, the landlord should be responsible. **Ms. Mele** offered an amendment that she had submitted in the House.

SEN. BEA MCCARTHY asked **Mr. Van Horssen** to comment on the trash disposal issue. **Mr. Van Horssen** said that the difficulty arose in the House via the suggested amendment. In our law today, a mobile home park is described as two or more spaces. The difficulty at least as it relates to services readily available is as follows. His aunt has land with two spaces. A county dump is at the bottom of the road. A service is available in Missoula

20 miles away. Under the law as it reads, the landlord can take care of the garbage at the bottom of the hill or tenant can take care of the garbage at the bottom of the hill. Under current law, it could be the case that the tenant could say, you have to take my garbage down to the bottom of the hill. With this amendment that says services readily available or reasonably available, there is an argument, at least, that you still have to do it or get the service from Missoula. The amendment before you in the proposed bill was put on in the House to create some flexibility in an attempt to negotiate between landlord and tenant.

SEN. DEBBIE SHEA asked about section 4, line 8. Who defines reasonable amounts? **Mr. Van Horssen** explained that as in other reasonable charges in the law, the market place will tell us what is a reasonable fee. This applies whether to attorneys' fees, moving fees, labor fees, etc.

Closing by Sponsor:

REP. BANKHEAD closed. Thank you for the good hearing. I am a tenant right now and it is interesting on the garbage issue. We actually, as a tenant, negotiated with the landlord. I feel that it is not all wrong. The law does provide safeguards in there to say there is nothing wrong in negotiating this. I would love to have everyone in Montana own their home. When we talk about affordable housing, I have worked with a group to provide financing for these people. But since not everyone owns their own home, there are things we can work on and in light of that we need to think about the providers as well. We cannot only look at the people who have to rent but we must look at everyone in the state. We heard comment that would make you believe there are a lot of bad landlords and this bill is coming against the tenants. The landlords are under pressures as well. They have mortgage payments due. They have expenses that have to be met every month. They need to have protection as well as the tenant. They need to get their money in a timely manner without have to go to court for eviction. The clause on "in case of emergency" is very explicit and in the law as it presently stands. If there is abuse on the part of the landlord, there are remedies for this.
This part is necessary so that the landlord has that right to be able to protect his property if he feels there is an immediate danger. It is important to remember that we have the vehicle out there providing affordable housing for tenants and we should keep this intact as much as possible. I believe this bill accomplishes that.

{Tape: 1; Side: B; Approx. Time Count: 10:22 AM; Comments: N/A.}

HEARING ON HB 492

Sponsor: **REP. HAL HARPER, HD 52, HELENA**

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-18-97
BILL NO. HB 406

Testimony opposing HB 406

Before Senate Committee on Business and Industry - March 18, 1997

MONTANA PEOPLE'S ACTION
Derek Birnie, Lead Organizer/Lobbyist

INTRODUCTION
Self: Mr. Chair and members of the committee. I'm Derek Birnie, Lead Organizer and currently Chief Lobbyist for Montana People's Action.

Organization: MPA is a statewide organization of low- and moderate-income Montanans who have worked for 15 years to **1)** achieve concrete improvements in their lives, **2)** to create a more even balance of power as it effects lower-income people, and **3)** to give the individuals who participate a greater sense of their own power to make a difference. The organization has worked on a range of issues including utility rates, health care, bank lending practices, affordable housing, and the rights of Mobile Home Court residents and tenants in general.

Why lobbying: As an organizer, my job is primarily to organize groups of tenants to negotiate collectively with their landlords on local issues such as rules and regulations, rent levels, and maintenance of property. Every two years much of that local activity goes on hold as landlords and tenants go to the legislature to change the rules of the game to benefit their own side. We've done the same this year, but now, having heard repeatedly from legislators the belief that, under the law at least, the balance of power between landlords and tenants is fair (every bill which would have strengthened tenants' rights having been killed), I am eager to get back out into the field and move tenants to work for themselves. But I must stand before a committee on one last issue and ask you to see the issue from a tenant's perspective.

With all due respect, Ellingson - eviction bill
Overview of bill: HB 406 is not an economic stimulus/better-for-business bill. It is a balance of power bill. A look at the six sections of the bill reveals six initiatives which **1)** would remove tenant rights and protections, **2)** would increase penalties for tenant infractions while decreasing penalties for landlord infractions, and **3)** would remove market mechanisms ensuring fair play. From a standpoint of balance and fairness, HB 406 is the most aggressive attempt to upset the balance of power between tenants and landlords that this legislature has seen this session.

I'll comment in detail on sections three, four, and five.

SECTION THREE (PERIOD FOR TERMINATION FOR LATE RENT PAYMENT)
The section of the bill which we view as the most egregious.

Logic for original wording: In their wisdom, previous legislatures have understood that moving an 80+ foot STRUCTURE from one rented location and rebuilding the home at another differs significantly from simply moving belongings out of one rented unit and into another. For that reason, the law distinguishes between mobile home court residents and tenants of other more conventional properties. One of the differences

past legislature have established is the period of time granted to make good on delinquent rent. 15 days is considered reasonable time for a HOMEOWNER to straighten out their affairs before facing a penalty of what typically amounts to thousands of dollars in moving costs, not to mention other, less measurable costs in family instability.

We challenge proponents to state what conditions in Montana have changed which invalidates the logic previous legislatures used to establish distinct guidelines for OWNERS of mobile homes. We believe that logic to remain valid, and the original time period to remain reasonable.

We further challenge the proponents to name one comparable situation in which a property owner faces such significant consequences for a three-day payment delinquency.

Refute the administrative simplification argument: Proponents would have you believe that the numbers 15 and 3 have no real meaning. That the functional numbers are 105 and 93. That's just not the case. Under this bill, failure to come up with rent THREE DAYS after notification from the landlord doesn't just put you at jeopardy of being evicted - it closes the case. PERIOD. Paying rent after that point DOES NOT stop the eviction. Sure, the law allows a longer period for the actual removal of the home, but from the point of view of 120,000 Montana homeowners, THREE DAYS will become a very important number.

SECTION FOUR (STORAGE OF PROPERTY)
While Section Three demonstrates the effort to increase penalties on tenants for non-compliance, Section Four demonstrated a conscious effort to decrease penalties for landlord non-compliance.

Previous legislatures have seen fit to establish a penalty in the case of a landlord's PURPOSEFUL damage to or loss of tenant's property in the landlord's care. Landlords found to have engaged in such activity are liable not only for paying the cost of the property, but an additional amount (equal to the cost) as a penalty. HB 406 would remove that penalty.

We challenge the proponents to provide clear reasoning for the legislature to allow the purposeful loss or damage to property.

SECTION FIVE (PERIOD FOR EVICTION FOR TWO VIOLATIONS OF THE SAME RULE)
Again, the period of time allowed for the removal of the home is a significant issue, given the significant shortage of mobile home spaces.

This particular section of the law is troublesome as it is. Members of ours are being evicted for breaking the same rule twice in a one-year period. It's bad enough that people are evicted and threatened with eviction for failure to mow their lawn on a weekly basis, for leaving snow shovels or tricycles in their yard occasionally, or for parking in the wrong spot twice in a year - now proponents want to make these evictions faster.

The original period is a reasonable period of time for moving a structure AND it would be unreasonable to shorten the period for evictions which many people believe to be unfair, but legal.

SECTION ONE (CASE OF EMERGENCY), SECTION TWO (WASTE REMOVAL), SECTION SIX (LANDLORD LABOR CHARGES)
All examples of further contraction of tenants' rights...

CONCLUSION

Ronda's complaint about eviction time.
- Problem is legal process, not the standards themselves.
  - but -
- changes suggested provide reasonable tenants to streamline their own process
- Melean's short of 3 d. no process even w/ 3 days

WHY IS HB 406 A BAD IDEA?

GENERAL STATEMENT:

House Bill 406 is a deliberate attempt to roll back the rights of tenants which have been established through decades of negotiation and legislation.

During the 1997 legislative session, the House and Senate have considered at least eight bills which would alter the Montana Residential Landlord and Tenant Law. In declining to pass a majority of the bills, members of both the House and the Senate have communicated that they believe that the rights of landlords and tenants to be in a state of equilibrium. They have encouraged tenants to work with landlords to fashion "consensus legislation" designed to meet the needs of both sides.

HB 406 flies in the face of that advice. If HB 406 passes, the net effect of the 1997 legislature on landlord/tenant issues in Montana will be to have shifted the balance of power between landlords and tenants radically against the growing population of Montanans who cannot afford to buy their own homes. Montana People's Action believes that the working people of this state should not be penalized for their economic status.

Specifically, HB 406 rolls back tenants' rights in the following ways:

1) HB 406 would establish unreasonable penalty for late payment of rent.
2) HB 406 would allow landlord irresponsibility without penalty.
3) HB 406 would abridge tenant right to privacy.

SPECIFIC PROBLEMS WITH HB 406:

1) HB 406 WOULD ESTABLISH UNREASONABLE PENALTY FOR LATE RENT

Currently, if a tenant is late on rent, the landlord may send a notice indicating that if rent is not paid in a reasonable period of time, the rental agreement will be terminated. The law specifies that in the case of a homeowner renting space in a mobile home court, the period is 15 days. HB 406 would shorten that period to just THREE days.

Under HB 406, if a senior citizen living in a mobile home court subsisting on Social Security had a delivery problem with his or her check, the tenant could find the rental agreement terminated by the fifth of the month! That termination means devastating costs to the homeowner:

- Moving the home often costs over a thousand dollars even to another location within the same city.
- If the homeowner is unable to find a suitable location for the home, and the court owner denies permission to sell the home with the intention of its remaining, the homeowner stands to regain only half or less of his or her equity in the home.

Effectively, HB 406 establishes a penalty of what amounts to thousands of dollars and immeasurable hardship for the crime of living paycheck to paycheck and experiencing financial difficulty for more than three days.

Current Montana law establishes a reasonable period of time for Landlords to expect tenants to straighten out their affairs, let's keep it that way.

2) HB 406 WOULD ALLOW LANDLORD IRRESPONSIBILITY WITHOUT PENALTY

Question: Under HB 406, what happens to a landlord whose "purposeful or negligent act" causes "loss to the tenant resulting from storage" by the landlord of personal property which belongs to the tenant?

Answer: "On the event of purposeful violation, the landlord is liable for ~~double~~ actual damages." Basically, HB 406 says that if the landlord deliberately "loses" or damages the tenant's property and gets caught, the landlord must merely replace the property or its value.

This section of Montana law currently establishes incentive for a landlord to handle the personal property of the tenant in a responsible way. The double damages establishes that deliberate irresponsibility carries the price tag of the cost of the items PLUS a penalty. Reducing the liability removes the penalty.

Current law establishes clear standards for responsible behavior. Lets keep it that way.

3) HB 406 WOULD ABRIDGE TENANT RIGHT TO PRIVACY

Currently, a landlord has access to a renter's home only with 24 hours' notice and suitable reason. The hard-won law reflects an agreed-upon commitment to a right to privacy.

HB 406 would abridge or deny that right by allowing the landlord access to the renter's private home without the tenant's notice, permission, or presence.

QUESTIONS AND ANSWERS ABOUT HB 406

But shouldn't people who habitually pay rent late be subject to eviction?
Yes. They are. Under 70-24-436 (1)(b), residents of mobile home courts are subject to eviction for repeated late payment of rent. HB 406 is unnecessary as incentive for tenants to pay rent promptly.

Doesn't the Law establish 90 days as the period for the mobile home owner to vacate the property?
Yes. That is the period of time the homeowner is allotted to find a new space for the home and to move it. HOWEVER, although Rep. Bankhead testified to the House of Representatives *that payment of rent at any time during this process would stop the eviction*, IT WOULD NOT. If enacted, HB 406 would establish that failure to pay rent before the end of the THREE DAY PERIOD would be sufficient grounds for termination of the rental agreement, regardless of the time it takes to move.

If a landlord purposefully loses or damages a tenant's property, don't legal remedies exist under laws relating to fraud or negligence?
Maybe a good trial lawyer could make that case. Regardless of other legal ramifications, removing the penalty from the section of the law which specifically outlines the landlord's responsibilities would have the impact of communicating to landlords and tenants alike that the landlord is not liable. The bill could in fact encourage unlawful behavior.

Shouldn't a landlord be able to take action to prevent danger to a home or a tenant?
Yes. But HB 406 as written defines the "case of emergency" as an occurrence "beyond the **TENANT'S** control requiring immediate action to protect the premises or the tenant." (Emphasis added.) It specifically includes the interruption of heat, electricity, gas, running water, [or] sewer and septic system service. In some cases, landlords have been known to schedule such interruptions in order to make repairs. In our reading of HB 406 such an occurrence UNDER THE LANDLORD'S CONTROL would meet the definition of a "case of emergency" and allow the landlord access to the premises without prior notification, circumventing laws protecting the tenant's right to privacy.

SUMMARY:

This legislature has a duty to act responsibly in determining the laws pertaining to landlords and tenants. As the state's housing market continues to feel the impact of increasing population, a decreasing pool of livable wage jobs, increasing costs for the development of housing, and decreasing federal resources for affordable housing options, the number of Montanans paying rent, instead of a mortgage payment, to keep a roof over their heads will only increase. In our opinion, to roll back the rights of that growing population through the passage of HB 406 would be an irresponsible act of legislation.

Prepared by
Montana People's Action
208 E. Main, Missoula MT 59082
voice: (406) 728-4095 • fax: (406) 728-5297 • e-mail: mpa@mtpaction.org

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3-19-97
BILL NO. H B 406

Amendments to House Bill No. 406
Third Reading Copy

Requested by Senator Benedict
For the Committee on Business and Industry

Prepared by Bart Campbell
March 18, 1997

1. Title, lines 5 and 6.
Strike: "DECREASING" on line 5 through "NONPAYMENT;" on line 6

2. Title, line 8.
Strike: "70-24-422,"

3. Page 4, line 20 through page 5, line 28.
Strike: section 3 in its entirety
Renumber: subsequent sections

MONTANA SENATE
1997 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-18-97

NAME	PRESENT	ABSENT	EXCUSED
WILLIAM CRISMORE	X		
CASEY EMERSON	X		
BEA MC CARTHY	X		
DEBBIE SHEA	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JOHN HERTEL, CHAIRMAN	X		

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CS-09

DATE 3/18/97

SENATE COMMITTEE ON Business + Industry

BILLS BEING HEARD TODAY: HB 406; HB 492
SJ 14

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Derek Birnie	Mt People's Action	HB406		✓
Dan McLean	Oakland Companies	HB 406	✓	
Jeanne Anderson	Commissioner	SSR 4	✓	
Rich Parsons	Cimmaron Corp	JSR 14	✓	
Bill Olson	AARP	SJR14	✓	
Beth Thle	Myself	HB 492	✓	
Mary Cotterell	self	HB492	✓	
Sandee May	Self	11	✓	
Linda Carpenter	MT Hauling Providers	HB 406	✓	
J. Ippolito	Citz. Against Govmt. Exp.	HB492	✓	
Charlotte Thomas	AARP & Ret. Teachers	SJ 14	✓	
Alice Thomas	AARP+RTA	SJ 14	✓	
Tara Mele	MontPIRG	HB 406		✓
Annie Bakes	Dept of Comm	SJR14	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 3-18-97

SENATE COMMITTEE ON Bus & Ind

BILLS BEING HEARD TODAY: HB 406; HB 492
SJ 14

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Ross Canna	S Rivers Alk Ch,	SJ14	✓	
Beth Baker	Dept of Justice	SJR14	✓	
Greg Van Horssen	Montana Housing Providers	HB406	✓	
Cory Laird	Montana Catholic Conf.	HB406		✓
Kimberly Rae Eisenhagen	Montana Family Foundation	HB406		✓
Clifford Roessner	Helena Public Schools	HB492	✓	
Arlette Randash	Eagle Forum	HB492	✓	
Laurie Koutnik	Christian Coalition of MT	HB492	✓	
ELLEN ENGSTED	AGWTF	HB492	✓	
Bob Nelson	xlf	HB492	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 19, 1997, at 9:00 A.M., in ROOM 410.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 375; HB 533; 3/5/97
Executive Action:	HB 375; HB 533; HB 431; HB 435; HB 406; HB 78; HB 399; HB 478; HB 492 HB 287 TABLED

HEARING ON HB 375

Sponsor: REP. WILLIAM RYAN, HD 44, GREAT FALLS

Proponents: Carl Schweitzer, MT Contractors Assoc.
Don Chance, MT Building Industry Assoc.
Kurt Baltrusch, Montana-Dakota Utilities, Billings
Gary Wiens, MT Electric Cooperatives Association
Bud Criner, One Call Service Center

Opponents: None

EXECUTIVE ACTION ON HB 406

Motion: SEN. BEA MCCARTHY MOVED HB 406 BE CONCURRED IN.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 406 (EXHIBIT 3) hb040601.abc.

Discussion: **Bart Campbell** explained the amendments. The 15 days are being left in for mobile home courts for payment of rent. **SEN. BENEDICT** felt this was a good bill and especially with the current law being left regarding the 15 days. The grace period is left up to the landlord. He can use zero to whatever days as a grace period.

Vote: THE MOTION TO AMEND HB 406 CARRIED WITH SENATORS CRISMORE AND EMERSON voting NO: 4-2

Motion/Vote: SEN. BENEDICT MOVED HB 406 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. DEPRATU WILL CARRY.

EXECUTIVE ACTION ON HB 78

Motion: SEN. BEA MCCARTHY MOVED HB 78 BE CONCURRED IN.

Amendments: SEN. WILLIAM CRISMORE MOVED TO AMEND HB 78 (EXHIBIT 4) hb007801.abc.

Discussion: **Bart Campbell** explained the amendment. The quota of protestors to license holders would be 50%. **SEN. HERTEL AND SEN. BENEDICT** felt that 50% was a more reasonable number.

Motion/Vote: SEN. CRISMORE MOVED HB 78 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED WITH SENATOR SHEA voting NO: 5-1

EXECUTIVE ACTION ON HB 399

Motion: SEN. STEVE BENEDICT MOVED HB 399 BE CONCURRED IN.

Amendments: SEN. MCCARTHY MOVED TO AMEND HB 399 (EXHIBIT 5) hb039901.abc.

Discussion: **SEN. BENEDICT** explained the amendment as he had proposed it to the sponsor. It changes the type of members on the board to two members of the profession and two members of the public. They felt that was a good balance.

MONTANA SENATE
1997 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-19-97

NAME	PRESENT	ABSENT	EXCUSED
WILLIAM CRISMORE	X		
CASEY EMERSON	X		
BEA MC CARTHY	X		
DEBBIE SHEA	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JOHN HERTEL, CHAIRMAN	X		

SEN:1997
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CS-09

SENATE STANDING COMMITTEE REPORT

March 19, 1997

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill 406 (third reading copy -- blue), respectfully report that House Bill 406 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, lines 5 and 6.
Strike: "DECREASING" on line 5 through "NONPAYMENT;" on line 6

2. Title, line 8.
Strike: "70-24-422,"

3. Page 4, line 20 through page 5, line 28.
Strike: section 3 in its entirety
Renumber: subsequent sections

-END-

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

601300SC.STS

HOUSE BILL NO. 406

INTRODUCED BY BANKHEAD

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LANDLORD AND TENANT LAWS; REVISING LANDLORDS' RIGHTS AND DUTIES; ~~DECREASING THE TIME PERIOD FOR A MOBILE HOME PARK TENANT TO PAY RENT AFTER NOTICE OF NONPAYMENT;~~ DECREASING THE TIME PERIOD FOR A TENANT TO REMOVE ABANDONED PROPERTY AFTER NOTICE FROM THE LANDLORD; ALLOWING A LANDLORD TO COVER LABOR COSTS; AND AMENDING SECTIONS 70-24-103, 70-24-303, ~~70-24-422,~~ 70-24-430, 70-24-436, AND 70-25-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-24-103, MCA, is amended to read:

"**70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the tenant or others.

(3) "Court" means the appropriate district court, justice's court, or city court.

(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile home park but does not rent the mobile home, means the space rented and not the mobile home itself.

(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(6) "Landlord" means:

(a) the owner, lessor, or sublessor of:

(i) the dwelling unit or the building of which it is a part; or

(ii) a mobile home park; or

(b) a manager of the premises who fails to disclose the managerial position.

(7) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(8) "Mobile home park" means a trailer court as defined in 50-52-101.

(9) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(10) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

(11) "Person" includes an individual or organization.

(12) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(13) "Rent" means all payments to be made to the landlord under the rental agreement.

(14) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(15) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of which are used in common by occupants in the structure.

(16) "Single-family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

(17) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

Section 2. Section 70-24-303, MCA, is amended to read:

"**70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector.** (1) A landlord shall:

(a) comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(c) keep all common areas of the premises in a clean and safe condition;

(d) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by ~~him~~ the landlord;

~~(e) provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;~~

(E) UNLESS OTHERWISE PROVIDED IN A RENTAL AGREEMENT, PROVIDE AND MAINTAIN APPROPRIATE RECEPTACLES AND CONVENIENCES FOR THE REMOVAL OF ASHES, GARBAGE, RUBBISH, AND OTHER WASTE INCIDENTAL TO THE OCCUPANCY OF THE DWELLING UNIT AND ARRANGE FOR THEIR REMOVAL;

~~(f)(e)~~(F) supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

~~(g)(f)~~(G) install, in accordance with rules adopted by the department of justice, an approved smoke detector in each dwelling unit under ~~his~~ the landlord's control. Upon commencement of a rental agreement, the landlord shall verify that the smoke detector in the dwelling unit is in good working order. The tenant shall maintain the smoke detector in good working order during the tenant's rental period. For purposes of this subsection, an approved smoke detector is a device that is capable of detecting visible or invisible particles of combustion and that bears a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and

assembly.

(2) If the duty imposed by subsection (1)(a) ~~of this section~~ is greater than a duty imposed by subsections (1)(b) through ~~(1)(g)~~ ~~(1)(f)~~ (1)(G), a landlord's duty ~~shall~~ must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in ~~subsections~~ ~~subsection~~ SUBSECTIONS (1)(e) AND (1)(f) OF THIS SECTION ~~and (1)(f) of this section~~ and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a) ~~of this section~~; and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the smoke detector required under subsection ~~(1)(g)~~ ~~(1)(f)~~ (1)(G)."

~~**Section 3.** Section 70-24-422, MCA, is amended to read:~~

~~"**70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321 affecting health and safety, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 days after receipt of the notice. If the breach is not remedied within that time, the rental agreement terminates as provided in the notice, subject to the following exceptions:~~

~~(a) If the breach is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate.~~

~~(b) If the breach involves an unauthorized pet, the landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time. This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home.~~

~~(c) If the breach involves unauthorized persons residing in the rental unit, the landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time. This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home.~~

~~(d) If substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the breach and the date of the termination of the rental agreement.~~

~~(2) (a) Except as provided in subsection (2)(b), if~~ If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

~~(b) For a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home, the notice period referred to in subsection (2)(a) is 15 days.~~

~~(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the breach under the provisions of 70-24-321(2).~~

~~(4) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (5), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.~~

~~(5) Treble damages may not be recovered for the tenant's early termination of the tenancy.~~

~~(6) The landlord is not bound by this section in the event that the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."~~

Section 3. Section 70-24-430, MCA, is amended to read:

"**70-24-430. Disposition of personal property abandoned by tenant after termination.** (1) If a tenancy terminates in any manner except by court order and the landlord reasonably believes that the tenant has abandoned all personal property ~~which~~ that the tenant has left on the premises, and a period of time of at least 5 days has elapsed since the occurrence of events upon which the landlord formed that belief, the landlord may remove the property from the premises.

(2) The landlord shall inventory and store all goods, chattels, and personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the cost of removal of the property to the place of storage. The landlord may store the property in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost of removal of the property to the place of storage.

(3) After complying with subsections (1) and (2), the landlord shall:

(a) make a reasonable attempt to notify the tenant in writing that the property must be removed from the place of safekeeping;

(b) notify the local law enforcement office of the property held by the landlord;

(c) make a reasonable effort to determine if the property is secured or otherwise encumbered; and

(d) send a notice by certified mail to the last-known address of the tenant, stating that at a specified time, not less than 15 days after mailing the notice, the property will be disposed of if not removed.

(4) The landlord may dispose of the property after complying with subsection (3) by:

(a) selling all or part of the property at a public or private sale; or

(b) destroying or otherwise disposing of all or part of the property if ~~he~~ the landlord reasonably believes that the value of the property is so low that the cost of storage or sale exceeds the reasonable value ~~thereof~~ of the property.

(5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord on or before the day specified in the notice that ~~he~~ the tenant intends to remove ~~his~~ the property and does not do so within ~~15~~ 7 days after delivery of the tenant's response, the tenant's property ~~shall be~~ is conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage. Reasonable storage costs are allowed a landlord who stores the property

~~himself~~, and actual storage costs are allowed a landlord who stores the property in a commercial storage company. A landlord is entitled to payment of the storage costs allowed under this subsection before the tenant may remove the property.

(6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is liable for ~~double~~ actual damages.

(7) A public or private sale authorized by this section ~~shall~~ must be conducted under the provisions of 30-9-504(3) or the sheriff's sale provisions of Title 25, chapter 13, part 7.

(8) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale and any delinquent rent or damages owing on the premises and ~~must~~ shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be found, the remaining proceeds ~~shall~~ must be deposited with the county treasurer of the county in which the sale occurred and, if not claimed within 3 years, ~~shall~~ must revert to the general fund of the county available for general purposes."

Section 4. Section 70-24-436, MCA, is amended to read:

"**70-24-436. Mobile home parks -- grounds for termination of rental agreement.** (1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422, except as specifically provided in this section, and only for one or more of the following reasons:

(a) nonpayment of rent, late charges, or common area maintenance fees as established in the rental agreement;

(b) late payment of rent, late charges, or common area maintenance fees as established in the rental agreement three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by 70-24-422. For this subsection (1)(b), the notice period referred to in 70-24-422(1) is 30 days.

(c) violation of a mobile home park rule that creates an immediate threat to the health and safety of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator is given written notice of the violation;

(d) two or more violations within a 12-month period of any combination of one or more mobile

home park rules, the violation of which would have a significant adverse impact on the mobile home park or its residents and ~~which~~ that are so designated;

(e) two or more violations within a 12-month period of the same rule. For this subsection (1)(e), the notice period referred to in 70-24-422(1) is ~~60~~ 30 days.

(f) two or more violations of 70-24-321(1) within a 12-month period or any violation of 70-24-321(2);

(g) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use of the premises. For this subsection (1)(g), the notice period referred to in 70-24-422(1) is 30 days.

(h) endangers other residents or mobile home park personnel, or causes substantial damage to the mobile home park premises;

(i) conviction of the mobile home owner or a tenant of the mobile home owner of a violation of a federal or state law or local ordinance, when the violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park, or the landlord's documentation of a violation of the provisions of Title 45, chapter 9;

(j) changes in the use of the land if the requirements of subsection (2) are met. For this subsection (1)(j), the notice period referred to in 70-24-422(1) is 180 days.

(k) a legitimate business reason, provided that the landlord meets the following requirements:

(i) the termination does not violate a provision of this section or any other state statute; and

(ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum of 90 days' written notice of the termination.

(2) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the

notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (2)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(3) For purposes of calculating the total number of notices given within a 12-month period under subsection (1)(b), only one notice ~~per~~ for each violation per month may be included in the calculation."

Section 5. Section 70-25-201, MCA, is amended to read:

"**70-25-201. Security deposit -- deductions authorized therefrom.** (1) A landlord renting property covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties due under lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-24-441(3), and a sum for actual cleaning expenses, including a reasonable charge for the landlord's labor.

(2) At the request of either party, the premises may be inspected within 1 week prior to termination of the tenancy.

(3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not be deducted until written notice has been given to the tenant. The notice must include the cleaning not accomplished by the tenant and the additional and type or types of cleaning that need to be done by the tenant to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant has 24 hours to complete the required cleaning. If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the cleaning charges from the deposit.

(4) A person may not deduct or withhold from the security deposit any amount for purposes other than those set forth in this section."

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